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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,630	08/31/2001	Raymond Marcelino Manese Lim	0023-0030	8770
44987	7590	09/21/2005	EXAMINER EMDADI, KAMRAN	
HARRITY & SNYDER, LLP 11240 WAPLES MILL ROAD SUITE 300 FAIRFAX, VA 22030			ART UNIT 2667	PAPER NUMBER

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/942,630	LIM ET AL.
	Examiner	Art Unit
	Kamran Emdadi	2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 July 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 and 9-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 7 and 9-18 is/are allowed.
- 6) Claim(s) 1-6 and 19-41 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 7-14-2005 have been fully considered and at least partially persuasive such that this office action has not been made final..

Claims 1-7 and 9-41 are pending in the present application. Claims 1, 7, 19, 23, 29, 33, 36 and 39 are independent.

Initially, the Examiner notes that claim 7 and subsequent dependent claims 9-18 are allowed.

Regarding claims 1 and 36, the Applicant argues that the Kim '751 does not teach the features recited in these claims, specifically, "the counter value representing an amount of time." It is well established that claim language is interpreted in light of the specification, however, the plain language of the claim is interpreted as broadly as possible. Here, Kim '751 teaches a counter value compared to a threshold value...it is determined that the congestion counter value is greater than a predetermined unit time (see column 5, lines 40-43). The comparison of the counter value to a unit time is evidence that the counter value is "representing" an amount of time.

Regarding claim 5, a congestion counter is the same as a flow control delay counter and the congestion counter is set to perform for instances greater than the threshold (see figure 6).

Regarding claim 6, clearing is the same as resetting.

Regarding claim 19, Applicant's arguments are persuasive and a new ground of rejection is present below.

Regarding claim 23, Applicant's arguments are persuasive and a new ground of rejection is present below.

Regarding claims 29 and 33, Applicant's arguments are not persuasive, however, a new inherency argument has been added to the outstanding arguments noted below.

Regarding claim 39, Applicant's arguments are not persuasive.

Accordingly, the subsequent dependent claims have also been addressed by the new and maintained rejections.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, and 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim et al. (U.S. Patent No. 5,982,751) hereinafter 'Kim1'.

Regarding claims 1, and 36, Kim1 teaches a connection call registration method including receiving a request to transfer data (see description for figure 5), determining whether a counter value exceeds a threshold (see column 5, lines 30-34 and step 105 of figure 6) and transmitting or routing call data (see steps 109-110).

Regarding claims 2-3, Kim1 teaches a plurality of data streams (figure 1) and a threshold 105 associated with at least one stream (figure 6).

Regarding claims 4-6 and 37-38, Kim1 teaches setting the threshold value based on a delay, and resetting (clearing) the counter value (see Abstract).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19-21 and 29-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Levine (U.S. Patent No. 6,504,818) hereinafter ‘Levine’.

Regarding claims 19-20, Levine teaches tracking data buffered and determining whether the amount of data exceeds a threshold and reducing a data rate when the threshold is exceeded (see Abstract of Levine). The threshold is the representative of an amount of delay for sending data from the buffer to the egress port, which is the same as a device that transmits data to the buffer (see Abstract of Levine).

Regarding claim 21, Levine teaches a plurality of streams (see figure 1).

Regarding claims 29 and 33, Levine teaches tracking data buffered and determining whether the amount of data exceeds a threshold and reducing a data rate when the threshold is exceeded (see Abstract of Levine). The Examiner notes that it is inherent to read data in the process of transferring data in an electronic computing device.

Regarding claim 30, Levine teaches storing the data information in the memory 120 (column 5, lines 10-16).

Regarding claim 31, Levine teaches programmable means for the system data via a communication interface 130 (see figure 4).

Regarding claims 32 and 34-35, Levine teaches masking a buffer (column 3, line 65).

Claims 23 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Susnow (U.S. Patent Publication No. 2002/0159385) hereinafter 'Susnow'.

Susnow teaches a packet flow control system exactly like the features recited in the instant application, specifically, claim 23. The system includes a buffer overflow prevention mechanism (see Abstract), a register for storing a threshold value that is compared to a delay for sending a flow control signal (link packet 340) from a buffer 620B to another device packet scheduler 720 (see figure 7 and [0071]). Also a counter is set and compared to a threshold value (see [0078]). The counter is an amount of time since a last flow control link packet 340 (see [0063]). A comparator 930 compares the buffer storage level to the threshold value (see [0083]). When the counter is greater than the threshold value then data is transmitted (see [0078]).

Regarding claim 26, Susnow teaches 4 bits used in the VL which is the basis for the counter (see [0038]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levine in view of Baranyai et al. (U.S. Patent No. 4,499,577) hereinafter 'Baranyai'.

Levine is silent regarding a128 lines used in the data communications system. Baranyai teaches a TDM conferencer used for data transfer applications. The system includes a permission bit used to regulate data transfer (column 8, lines 58-65). The system further includes a TDM system that utilizes 128 lines with 128 time slots (column 1, line 30), and a register (column 9, lines 25-30).

Evidence of motivation to combine these two references can be found in the Background portions of these two specifications. Baranyai discloses that it would be desirable to have a communications system that utilizes voice and data communications (column 2, lines 39-40). Similarly, Levine discloses a need for a data network control scheme that fairly allocates bandwidth to active sources and guarantees certain data rates that the network is obligated to carry. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the call control and voice data schemes discussed in these two references to arrive at the features recited in claims 16-18.

Claims 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (U.S. Patent No. 6,215,768), hereinafter 'Kim2' in view of Levine.

Kim2 teaches a connection admission controller for traffic monitoring including requesting bandwidth for data transferring (column 5, lines 20-23), performing a calculation at control device 40 of figure 1, to assign an available bandwidth (column 5, lines 38-44 and figure 1) and permitting data transfer based on a real available bandwidth. These features correspond to the first flow control device of claim 39. Kim2 is, however, silent regarding the throttle controller described in the second flow control device of claim 39. Levine teaches tracking data buffered and determining whether the amount of data exceeds a threshold and reducing a data rate when the threshold is exceeded (see Abstract of Levine).

Evidence of motivation to combine these two references is contained in the Background portions of their respective specifications. For instance, Kim2 teaches that computing a precise bandwidth usable for calls, and requiring a specified QoS is desired (column 3, lines 18-30). Similarly, Levine teaches that there is a need for a data network control scheme that fairly allocates bandwidth to active sources and guarantees certain data rates that the network is obligated to carry. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the quality assured bandwidth allocation schemes discussed in these two references to arrive at the features recited in claim 39.

Claims 24 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Susnow in view of Baranyai.

Susnow is silent regarding a transfer register, a permission bit to transfer data and 128 lines used in the data communications system. Baranyai teaches a TDM conferencer used for data transfer applications. The system includes a permission bit used to regulate data transfer (column 8, lines 58-65). The system further includes a TDM system that utilizes 128 lines with 128 time slots (column 1, line 30), and a register (column 9, lines 25-30).

Evidence of motivation to combine these two references can be found in the Background portions of these two specifications. Susnow discloses that it would be desirable to have a communications system that utilizes a flow control mechanism that prevents loss of packets (see [0006]). Similarly, Abe discloses the need for a data transferring mechanism that provides more accurate transfer times and improved transferring performance (column 4, lines 15-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the flow control mechanism and the accuracy measuring transfer performance schemes discussed in these two references to arrive at the features recited in claims 24 and 28.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Susnow in view of Kim1.

Susnow is silent regarding a counter value that resets when data is transmitted. Kim1 teaches a counter value that is reset when congestion is below a given threshold (column 5, lines 34-37).

Evidence of motivation to combine these two references can be found in the Background portions of these two specifications. Kim1 discloses the need for a call control system that utilizes network efficiency for call integrity for systems (column 2, lines 10-25). Similarly, Susnow discloses that it would be desirable to have a communications system that utilizes a flow control mechanism that prevents loss of packets (see [0006]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the data communication efficiency mechanisms discussed in these two references to arrive at the features recited in claim 27.

Allowable Subject Matter

Claim 7 and subsequent dependent claims 9-18 are allowed for the reasons set forth in the last office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamran Emdadi whose telephone number is 571-272-6047. The examiner can normally be reached on M-F between the hours of 8am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kamran Emdadi

September 16, 2005


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9/19/05